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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/049,891
Filing Date: July 08, 2002
Appellant(s): RAIDEL ET AL.

Richard L. Bridge
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 22, 2006 appealing from the Office action mailed May 4, 2006.

As an initial matter, this supplemental Examiner's Answer is a correction to the record only and requires **NO** response or communication from the Appellant.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

GROUND OF REJECTION NOT ON REVIEW

The following grounds of rejection have not been withdrawn by the examiner, but they are not under review on appeal because they have not been presented for review in the appellant's brief. The rejection of claims 45-48, 54, 55 and 58 under 35 U.S.C. 102(b) as anticipated by Lassen et al (EP 687,453 A1).

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

EP 687453 A1	LASSEN et al	6-1995
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"Lateral", Webster's II New College Dictionary, (1995) p. 621.

"Lateral", Cambridge Advanced Learner's Dictionary (2006)

"Transverse", Merriam-Webster online dictionary (2006)

"Transverse", Cambridge Advanced Learner's Dictionary (2006)

"Transverse", Oxford English Dictionary online (2006)

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 44, 82 and 83 are rejected under 35 U.S.C. 102(b) as being anticipated by Lassen et al. (EP 0687453 A1; herein 'Lassen'). Regarding claims 44, 82 and 83, Lassen discloses absorbent core 18 of sanitary napkin 10, which absorbs body fluids and conforms to

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the body, having the tissue construction bi-folded to form two symmetrical square halves and a flexure axis/fold line 24 along longitudinal centerline Y-Y (col. 1, I1.3-5, col. 6, I1.13-22 and col. 10, I1.2-7, figure 3). Lassen further discloses the longitudinal flexure axis/fold line 24 can be positioned transversely, i.e., along the X-X axis and off center from the longitudinal center line Y-Y, and thus extending at least in part laterally and longitudinally of the absorbent body 18 and creating segments foldable relative to one another (col. 6, II. 22-25).

(10) Response to Argument

Applicant's arguments filed September 22, 2006 have been fully considered but they are not persuasive. The term "fold line" is defined by Appellant as referring to the "areas of a material processed for separation to form the segments of the absorbent body. That is, the dividing seam, or fold line, refers to creases, cuts or other indentations formed in the absorbent body to define segments of the absorbent body that are capable of folding relative to each other" (see page 4, amended fifth paragraph).

In response to Appellant's argument that the references fail to show or suggest at least one fold line extending at least in part laterally of the absorbent body as required by independent claim 44 (see Grounds of Rejection pages 5-9), examiner maintains that flexure axis 24 of Lassen figure 2 extends in part laterally (on the side) since Lassen discloses the central, longitudinal flexure axis 24 can be positioned transversely, i.e., along the X-X axis, and off center from the longitudinal center line Y-Y, a distance ranging from about 0 to about 10 millimeters, without adversely effecting the functionality of the absorbent core 18 to adopt various body-accommodating configurations (see column 6, lines 22-28 and page of Office action dated 4 May 2006). Thus, Lassen discloses an axis that extends laterally or on the side as required by Appellant's independent claims. It is additionally noted that a transverse axis is

not necessarily equivalent to the recitation of "extending at least in part laterally of the absorbent body." Appellant recites that the fold line extends AT LEAST IN PART LATERALLY (on the side) rather than extending *entirely* across a transverse axis that is perpendicular to a longitudinally extending and vertical axis. Appellant alleges that "each of the exemplary embodiments includes a fold line that extends either parallel to or coaxial with the lateral axis of the absorbent body, or extends other than parallel to the longitudinal axis of the absorbent body so as to have a lateral component (e.g. vector)" (see Grounds of Rejection page 5). However, it is noted that the term "lateral" has not been specifically set forth in Appellant's specification and is thus given its broadest reasonable plain meaning interpretation according to *In re Zletz*, 893 F. 2d 319, 3211, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989). The plain meaning definition of "lateral" has been interpreted to mean "Of, pertaining to, or located at or on the side" (Webster's II New College Dictionary, 1995). Thus the assumption that the "fold line" is required to extend in a direction parallel a transverse axis of the absorbent body is insufficient and is not required by the claim limitations. Moreover, since flexure axis 24 of Lassen divides absorbent core 18 into three-dimensional strip like elements 26, 28 (column 6, lines 38-42 and figure 2), that extend at least in part laterally and in a direction parallel to the transverse axis and thus furthermore meet the claim recitation regardless of the interpretation of the term "extending...laterally."

In response to Appellant's argument that the flexure axis 24 of Lassen cannot extend both in part longitudinally of the absorbent body and extending in part laterally (see Grounds of Rejection pages 9-11), flexure axis 24 extends the length of the absorbent core (and thus in part longitudinally) [column 6, lines 19-21] and also extends laterally as discussed above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Melanie J Hand/

Examiner, Art Unit 3761

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